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BEFORE THE FEDERAL ELECTION COMMISSION

CELA

In the Matter of

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MUR 6183

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BAY CITY EDUCATORS PUBLIC

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AFFAIRS COUNCIL

9

AND SAUN STROBEL,

10

AS TREASURER

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**GENERAL COUNSEL'S REPORT**

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Under the Enforcement Priority System, matters that are low-rated

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are forwarded to the Commission with a recommendation for dismissal, or in certain

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cases where the complaint does not provide facts upon which a violation of the Federal

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Election Campaign Act of 1971, as amended, may have occurred, a no reason to believe

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finding is recommended. The Office of General Counsel scored MUR 6183 as a low-rated

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matter.

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In this matter, the complainant, Kyle Olson, alleges that the Bay City Educators

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Public Affairs Counsel and Saun Strobel, in her official capacity as treasurer (collectively

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referred to as "BCE-PAC"), became a separate segregated fund ("ssf") of the Bay City

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Education Association, a labor union of professional educators. Specifically, the

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complainant alleges that BCE-PAC attained political committee status under the Federal

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Election Campaign Act of 1971, as amended ("the Act") in 2008 after making a \$500

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contribution to Stupak for Congress, a federal committee, thereby triggering the registration

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and reporting requirements under the Act. The \$500 contribution was reported by Stupak

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for Congress to the FEC and by BCE-PAC to the Michigan Department of State Bureau of

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Elections. The complainant reasons that BCE-PAC is a separate segregated fund ("ssf") of

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1 a labor union, as described in 2 U.S.C. § 441b(b) and, therefore, need not meet the \$1,000  
2 expenditure threshold for attaining political committee status required for other groups  
3 under the Act, as indicated by 2 U.S.C. § 431(4)(a) and (b). The complainant asserts that  
4 all ssfs are political committees upon spending any money to influence a federal election,  
5 and consequently BCE-PAC's contribution to Stupak for Congress required it to register  
6 with the FEC and file reports as a political committee.

7 BCE-PAC responded that the statute presents two distinct routes by which entities  
8 could achieve political committee status: (1) by establishment as a federal ssf, as described  
9 in 2 U.S.C. § 431(4)(b) and 2 U.S.C. § 441b(b); or (2) by becoming a political committee  
10 via contributions or expenditures in excess of \$1,000 in a calendar year, as described in  
11 2 U.S.C. § 431(4)(a). BCE-PAC notes that it was not established as a federal ssf, in that its  
12 bylaws (provided to the Commission in the response) state that its purpose is "[t]o  
13 encourage professional educators to fulfill their responsibilities by participation in political  
14 activities including involvement in state and local political campaigns...." BCE-PAC also  
15 notes that 11 C.F.R. § 102.1(c) states that while ssfs "established under Sec. 441b(b)(2)(C)  
16 shall file a Statement of Organization with the Federal Election Commission no later than  
17 10 days after establishment," it continues by stating "[t]his requirement shall not apply to a  
18 fund established solely for the purpose of financing political activity in connection with  
19 State or local elections." 11 C.F.R. § 102.1(c). BCE-PAC's response maintains that it  
20 inadvertently strayed beyond its bylaws by contributing to the federal candidate, but the  
21 BCE-PAC treasurer, Saun Strobel, avers, in a sworn affidavit submitted with the response,  
22 that a review of BCE-PAC's records does not reveal any other federal contributions, and  
23 BCE-PAC does not intend to make any federal contributions in the future.

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1 It appears that BCE-PAC was not established as a separate segregated fund under  
2 the provisions of 2 U.S.C. § 441b(b) and, therefore, it did not achieve political committee  
3 status under the requirements of 2 U.S.C. § 431(4)(b). Furthermore, as averred by BCE-  
4 PAC and supported by the public record, BCE-PAC did not make or receive federal  
5 contributions or expenditures in excess of \$1,000 in a calendar year, which would have  
6 triggered the federal registration and reporting requirements.<sup>1</sup> See 2 U.S.C. § 431(4)(a).  
7 Thus, the Office of General Counsel recommends that the Commission find no reason to  
8 believe that BCE-PAC violated the Act.


9 **RECOMMENDATIONS**

- 10  
11 1. Find no reason to believe that Bay City Educators Public Affairs Council  
12 violated the Federal Election Campaign Act of 1971, as amended.  
13 2. Close the file, and approve the appropriate letters.

14 Thomasenia P. Duncan  
15 General Counsel  
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18 1/24/07  
19 Date

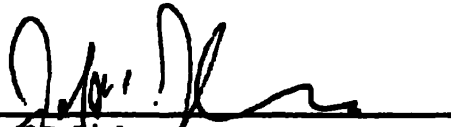
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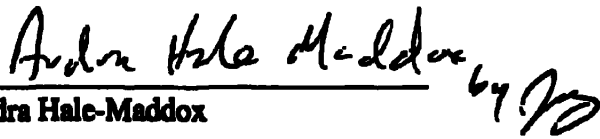
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22 Gregory R. Baker  
23 Special Counsel  
24 Complaints Examination  
25 & Legal Administration  
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<sup>1</sup> The contribution to Stupak for Congress was \$500, and BCE-PAC's reports filed with the Michigan Bureau of Elections did not reveal any other federal contributions in 2008, therefore, BCE-PAC does not appear to have crossed the \$1,000 expenditures threshold for political committee status. See 2 U.S.C. § 431(4)(a), see also BCE-PAC's reports to the Michigan Bureau of Elections at [http://www.michigan.gov/son/0,1607,7-127-1633\\_8723\\_8751---00.html](http://www.michigan.gov/son/0,1607,7-127-1633_8723_8751---00.html). Additionally, it appears from the public record that BCE-PAC received sufficient funds that would be subject to the limitations and prohibitions of the Act in order to make a federal contribution of \$500.

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Jeff S. Jordan  
Supervisory Attorney  
Complaints Examination  
& Legal Administration

  
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Audra Hale-Maddox  
Attorney

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